

PHARMACY BOARD[657]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 17A.7(2), the Board of Pharmacy hereby rescinds Chapter 24, “Pharmacy Internet Sites,” and amends Chapter 25, “Child Support Noncompliance,” Chapter 26, “Petitions for Rule Making,” Chapter 27, “Declaratory Orders,” Chapter 29, “Sales of Goods and Services,” and Chapter 31, “Student Loan Default or Noncompliance with Agreement for Payment of Obligation,” Iowa Administrative Code.

Pursuant to Iowa Code section 17A.7(2), this rule making is the result of an overall review of administrative rules. These amendments update language in Board rules to reflect the current name and contact information for the Board and, in some Items, correct inaccurate citations to rules and laws. Additionally, during the 2017 Legislative Session of the 87th General Assembly, 2017 Iowa Acts, Senate File 484, was signed into law, rescinding Iowa Code section 155A.13B regarding pharmacy Internet sites. As a result, Item 1 of this rule making rescinds 657—Chapter 24.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the June 21, 2017, Iowa Administrative Bulletin as **ARC 3133C**. The Board received no written comments regarding the proposed amendments. The adopted amendments are identical to those published under Notice.

These amendments were approved during the August 30, 2017, meeting of the Board of Pharmacy.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 17A.7(2) and 2017 Iowa Acts, Senate File 484.

These amendments will become effective on November 1, 2017.

The following amendments are adopted.

ITEM 1. Rescind and reserve **657—Chapter 24**.

ITEM 2. Amend rule **657—25.1(252J)**, definition of “Board,” as follows:

“Board” means the Iowa board of pharmacy ~~examiners~~.

ITEM 3. Amend subrule 25.2(3) as follows:

25.2(3) Preparation and service of denial notice. The executive ~~secretary/director~~ director of the board is authorized to prepare and serve the notice upon the licensee.

ITEM 4. Amend subrule 25.3(3) as follows:

25.3(3) Preparation and service of revocation or suspension notice. The executive ~~secretary/director~~ director of the board is authorized to prepare and serve the revocation or suspension notice upon the licensee and is directed to notify the licensee that the license will be suspended unless the license is already suspended on other grounds. In the event that the license is on suspension, the executive ~~secretary/director~~ director shall notify the licensee of the board’s intention to revoke the license.

ITEM 5. Amend subrule 25.3(5) as follows:

25.3(5) Reinstatement following license suspension, revocation, or denial of renewal. A licensee shall pay all board fees required for license renewal or license reinstatement, and all continuing education requirements shall be met, before a license will be reinstated after the board has suspended a license pursuant to the Act. A licensee whose license to practice pharmacy has been revoked shall complete the examination components as indicated in rule ~~657—2.10(155A)~~ 657—2.1(147,155A) and shall pay all required examination fees pursuant to rule ~~657—2.2(147)~~ 657—2.3(147,155A). A licensee whose registration to practice as a pharmacist-intern, as a pharmacy technician, or as a pharmacy support person or whose registration to handle controlled substances under Iowa Code chapter 124 has been revoked shall complete the appropriate application and pay all board fees required for new registration.

ITEM 6. Amend rule 657—26.1(17A) as follows:

657—26.1(17A) Petition for rule making. Any person, association, agency, or political subdivision may file a petition for rule making with the board of pharmacy at 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688. A petition is deemed filed when received by that office. The board shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be typewritten, machine printed, or legibly handwritten in ink and must substantially conform to the following form:

IOWA BOARD OF PHARMACY EXAMINERS

Petition by (Name of Petitioner)
for the (adoption, amendment, or repeal)
of rules relating to (state subject matter).

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PETITION FOR
RULE MAKING

The petition shall include the following information:

1. to 5. No change.
6. Any request by petitioner for a meeting provided for by rule 657—26.4(17A).
7. No change.

ITEM 7. Amend rule 657—26.3(17A) as follows:

657—26.3(17A) Inquiries. Inquiries concerning the status of a petition for rule making may be made to Executive ~~Secretary/Director~~ Director, Iowa Board of Pharmacy ~~Examiners~~, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or via electronic mail to Lloyd.jessen@ibpe.state.ia.us andrew.funk@iowa.gov.

ITEM 8. Amend rule 657—27.1(17A) as follows:

657—27.1(17A) Petition for declaratory order. Any person may file a petition with the board of pharmacy ~~examiners~~, hereinafter referred to as “the board,” for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the Iowa Board of Pharmacy ~~Examiners~~ at 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688. A petition is deemed filed when it is received by that office. The board shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition shall be typewritten or legibly handwritten in ink and shall substantially conform to the following form:

IOWA BOARD OF PHARMACY EXAMINERS

Petition by (Name of Petitioner) for a
Declaratory Order on (Cite provisions of law
involved).

}

PETITION FOR
DECLARATORY ORDER

The petition shall provide the following information:

1. to 8. No change.

The petition shall be dated and signed by the petitioner or the petitioner’s representative. It shall also include the name, mailing address, and telephone number of the petitioner and petitioner’s representative and a statement indicating the person to whom communications concerning the petition should be directed.

ITEM 9. Amend subrule 27.3(3) as follows:

27.3(3) A petition for intervention shall be filed at the board office at 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688. Such a petition is deemed filed when it is received by that office. The board will provide the petitioner with a file-stamped copy of the petition for intervention if the

petitioner provides an extra copy for this purpose. A petition for intervention shall be typewritten or legibly handwritten in ink and shall substantially conform to the following form:

IOWA BOARD OF PHARMACY EXAMINERS

Petition by (Name of Original Petitioner)
for a Declaratory Order on
(Cite provisions of law cited in
original petition).



PETITION FOR
INTERVENTION

The petition for intervention shall provide the following information:

1. to 6. No change.

The petition shall be dated and signed by the intervenor or the intervenor's representative. It shall also include the name, mailing address, and telephone number of the intervenor and intervenor's representative, and a statement indicating the person to whom communications should be directed.

ITEM 10. Amend rule 657—27.5(17A) as follows:

657—27.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the Iowa Board of Pharmacy ~~Examiners~~, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688.

ITEM 11. Amend rule 657—27.6(17A) as follows:

657—27.6(17A) Service and filing of petitions and other papers.

27.6(1) No change.

27.6(2) Filing—when required. All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Iowa Board of Pharmacy ~~Examiners~~, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the board.

27.6(3) Method of service, time of filing, and proof of mailing. Method of service, time of filing, and proof of mailing shall be as provided by ~~657—35.11(17A,272C)~~ 657—35.17(17A,272C).

ITEM 12. Amend rule 657—27.8(17A) as follows:

657—27.8(17A) Action on petition.

27.8(1) Within the time allowed by ~~1998 Iowa Acts, chapter 1202, section 13(5)~~ Iowa Code section 17A.9(5), after receipt of a petition for a declaratory order, the ~~executive secretary/director or designee board~~ shall take action on the petition as required by ~~1998 Iowa Acts, chapter 1202, section 13(5)~~ Iowa Code section 17A.9(5).

27.8(2) No change.

ITEM 13. Amend rule 657—27.9(17A) as follows:

657—27.9(17A) Refusal to issue order.

27.9(1) The board shall not issue a declaratory order where prohibited by ~~1998 Iowa Acts, chapter 1202, section 13(1)~~, Iowa Code section 17A.9(1) and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

1. to 10. No change.

27.9(2) and 27.9(3) No change.

ITEM 14. Amend ~~657—Chapter 27~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 17A.9 ~~as amended by 1998 Iowa Acts, chapter 1202, section 13.~~

ITEM 15. Amend rule 657—29.1(68B) as follows:

657—29.1(68B) Selling of goods or services by members of the board. The board members shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations that are subject to the regulatory authority of the board of pharmacy ~~examiners~~ except as authorized by these rules.

ITEM 16. Amend subrules 29.3(1) and 29.3(2) as follows:

29.3(1) A member of the board may sell goods or services to any individual, association, or corporation regulated by any division within the department of public health, other than the board of pharmacy ~~examiners~~. This consent is granted because the sale of such goods or services does not affect the board member's duties or functions on the board.

29.3(2) A member of the board may sell goods or services to any individual, association, or corporation regulated by the board of pharmacy ~~examiners~~ if those goods or services are routinely provided to the public as part of that person's regular professional practice. This consent is granted because the sale of such goods or services does not affect the board member's duties or functions on the board. In the event an individual, association, or corporation to whom a board member sells goods or services is directly involved in any matter pending before the board, including a disciplinary matter, that board member shall not participate in any deliberation or decision concerning that matter. In the event a complaint is filed with the board concerning the services provided by the board member to a member of the public, that board member is otherwise prohibited by law from participating in any discussion or decision by the board in that case.

ITEM 17. Amend rule 657—29.4(68B) as follows:

657—29.4(68B) Application for consent. Prior to selling a good or service to an individual, association, or corporation subject to the regulatory authority of the board of pharmacy ~~examiners~~, a board member must obtain prior written consent unless the sale is specifically allowed in rule 657—29.3(68B). The request for consent must be in writing, signed by the board member requesting consent. The application must provide a clear statement of all relevant facts concerning the sale. The application should identify the parties to the sale and the amount of compensation. The application should also explain why the sale should be allowed.

ITEM 18. Amend rule **657—31.1(261)**, definition of "Board," as follows:

"Board" means the Iowa board of pharmacy ~~examiners~~.

ITEM 19. Amend subrule 31.2(3) as follows:

31.2(3) Preparation and service of denial notice. The executive ~~secretary/director~~ director of the board is authorized to prepare and serve the notice upon the licensee.

ITEM 20. Amend subrule 31.3(3) as follows:

31.3(3) Preparation and service of revocation or suspension notice. The executive ~~secretary/director~~ director of the board is authorized to prepare and serve the notice upon the licensee and is directed to notify the licensee that the license will be suspended unless the license is already suspended on other grounds. In the event that the license is on suspension, the executive ~~secretary/director~~ director shall notify the licensee of the board's intention to revoke the license.

ITEM 21. Amend subrule 31.3(5) as follows:

31.3(5) Reinstatement following license suspension, revocation, or denial of renewal. All board fees required for license renewal or license reinstatement shall be paid by licensees, and all continuing education requirements shall be met, before a license will be renewed or reinstated after the board has suspended a license pursuant to the Act. A licensee whose license to practice pharmacy has been revoked shall complete the examination components as indicated in rule ~~657—2.10(155A)~~ 657—2.1(147,155A) and shall pay all required examination fees pursuant to rule ~~657—2.2(147)~~ 657—2.3(147,155A). A licensee whose registration to practice as a pharmacist-intern, as a pharmacy technician, or as a pharmacy support person or whose registration to handle controlled substances under Iowa Code chapter 124

has been revoked shall complete the appropriate application and pay all board fees required for new registration.

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